

AMENDED IN ASSEMBLY MAY 2, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 569

Introduced by Assembly Member Garcia

February 16, 2005

An act to add Section 49437 to, *and to add Article 12.5 (commencing with Section 49575) to Chapter 9 of Part 27 of, the Education Code, relating to pupil nutrition.*

LEGISLATIVE COUNSEL'S DIGEST

AB 569, as amended, Garcia. Pupil nutrition: food service.

Existing law requires that the sale of all foods on school grounds at an elementary school be approved for compliance with specified nutrition standards.

This bill, commencing on January 1, 2007, would require a school district that elects to contract with a commercial food vendor to prepare or provide food for sale to pupils on a school campus to make information available on the nutritional content of all food items sold. The bill would require a commercial food vendor to display a standard label on prepackaged and prepared items which provides the nutritional information of that item pursuant to the federal Nutrition Labeling and Education Act of 1990, to post the nutritional information in a conspicuous manner on a wall in public view, or to provide the nutritional information in printed form upon request. The bill would authorize a school district to revoke a contract for food service entered into between a school district and a commercial food vendor after January 1, 2007, if the commercial food vendor fails to provide the nutritional information, as specified. The bill would prohibit a school district that elects to contract with a commercial food vendor from entering into a contract with the vendor, unless the

vendor agrees to provide the nutritional information required by the bill. ~~The bill~~ These provisions would not apply to a food vendor that provides meal service pursuant to a state or federal funded meal program.

The bill would also make the entire campus of each junior high school, middle school, or high school a food service area, as defined, during regular breakfast and lunch periods. The bill would prohibit the sale or serving of foods of minimal nutritional value, as defined, during regular school breakfast and lunch periods.

The bill would provide that specified schools may authorize the serving or sale, during breakfast and lunch periods, only a food or beverage item that is full meal, as defined, and that is nutritionally equivalent to a free or reduced-cost meal eligible for reimbursement under the National School Lunch Program.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) The State of California has the second highest rate of
- 4 overweight and low-income children in the nation.
- 5 (2) Since the early 1970s the childhood obesity rate has more
- 6 than doubled for preschool children, aged 2 to 5 years, inclusive,
- 7 and for adolescents, aged 12 to 19 years, inclusive, and it has
- 8 more than tripled for children aged 6 to 11 years, inclusive.
- 9 (3) The average weight for a 10-year-old boy in 1963 was 74.2
- 10 pounds, and by 2002, it was nearly 85 pounds. The average
- 11 weight for a 10-year-old girl in 1963 was 77.4 pounds, and by
- 12 2002, it was nearly 88 pounds.
- 13 (4) African-American, Hispanic, and American Indian
- 14 adolescents have higher rates of obesity than the rest of the
- 15 population. Up to 24 percent of African-American and Hispanic
- 16 children are above the 95th percentile in weight.
- 17 (5) Mexican-American children, aged 6 to 11 years, inclusive,
- 18 were more likely to be overweight (22 percent) than
- 19 African-American children (20 percent) and non-Hispanic white
- 20 children (14 percent).

1 (6) *The psychological consequences of obesity are many.*
2 *Children who are obese are at an increased risk for*
3 *discrimination, low self-esteem, and poor body image.*
4 *Adolescent girls who are obese are less likely to be accepted into*
5 *college, less likely to be married, and less likely to be*
6 *economically well-off in adulthood.*

7 (7) *Fifty percent of overweight children and teens remain*
8 *overweight as adults.*

9 (8) *Approximately 26 to 41 percent of overweight preschool*
10 *children will become overweight adults.*

11 (9) *Childhood obesity has been linked to diabetes,*
12 *hypertension, and heart disease. Type 2 diabetes, which until*
13 *recently affected only adults, now affects a growing number of*
14 *children and accounts for almost 50 percent of new diabetes*
15 *cases among children in some communities in the nation.*

16 (10) *A nutritionally poor diet and lack of regular exercise*
17 *have resulted in the growing epidemic of childhood obesity, yet*
18 *healthy eating plays a critical role in learning and cognitive*
19 *development.*

20 (11) *Because children spend approximately one-third of their*
21 *day at school, schools play an important role in children's ability*
22 *to acquire adequate nutrients.*

23 (12) *Health and education experts believe that among the*
24 *almost critical steps to helping children practice healthy eating*
25 *habits is to establish policies and programs that increase access*
26 *to healthful foods and beverages.*

27 (13) *While the State Department of Education and the United*
28 *States Department of Agriculture (USDA) regulate the nutrient*
29 *content of meals served or sold under the USDA reimbursable*
30 *meal programs, similar standards do not exist for "competitive*
31 *foods" sold outside the USDA meal programs.*

32 (14) *In a 2003 survey, 94 percent of responding California*
33 *school districts with a middle and a high school reported that*
34 *competitive foods are sold on their school campuses. The most*
35 *common fast food in competition with the school breakfast and*
36 *lunch programs were chips, pizza, cookies, and soda.*

37 (15) *Only 2 percent of California youth, aged 12 to 17 years,*
38 *inclusive, consume foods that meet national dietary*
39 *recommendations.*

1 ***(b) It is the intent of the Legislature to ensure that pupils in***
2 ***California junior high schools, middle schools, and high schools,***
3 ***to the extent possible, have available to them, during breakfast***
4 ***and lunch periods at school, healthful and nutritious food and***
5 ***beverage items.***

6 ~~SECTION 1.~~

7 SEC. 2. Section 49437 is added to the Education Code, to
8 read:

9 49437. (a) (1) Commencing on January 1, 2007, a school
10 district that elects to renew or enter into any contract with a
11 commercial food vendor to prepare or provide food for sale to
12 pupils on a school campus shall make information available on
13 the nutritional content of all food items sold.

14 (2) (A) A commercial food vendor that prepares or provides
15 food for sale to pupils on a school campus shall do one of the
16 following:

17 (i) Clearly display on prepackaged and prepared food items a
18 standard label that provides nutritional information.

19 (ii) Post the nutritional information in printed form on a wall
20 in a public area and in a conspicuous manner adjacent to where
21 the order is placed.

22 (iii) Provide the nutritional information in printed form upon
23 request.

24 (B) Information required by this paragraph shall comply with
25 applicable provisions of the federal Nutritional Labeling and
26 Education Act of 1990 (P.L. 101-535).

27 (3) Paragraph (2) does not apply to a commercial food vendor
28 who supplies a direct seller with the proper nutritional
29 information materials to comply with the requirements of this
30 subdivision.

31 (b) A contract for food service entered into between a school
32 district and a commercial food vendor after January 1, 2007, may
33 be revoked by the school district if the commercial food vendor
34 fails to provide the nutritional information required by
35 subdivision (a). Prior to revoking the contract, the school district
36 shall first notify the vendor in writing of the violation and shall
37 give the vendor 30 days to provide the required information.

38 (c) A school district that elects to contract with a commercial
39 food vendor for the sale of prepared food to pupils may not enter

1 into a contract with a vendor; unless the vendor agrees to provide
2 the nutritional information specified in subdivision (a).

3 (d) This section does not apply to a food vendor that provides
4 meal service pursuant to a state or federal funded meal program.

5 *SEC. 3. Article 12.5 (commencing with Section 49575) is*
6 *added to Chapter 9 of Part 27 of the Education Code, to read:*

7
8 *Article 12.5. Foods and Beverages During Breakfast and*
9 *Lunch Periods*

10
11 *49575. (a) The entire campus of each junior high school,*
12 *middle school, and high school is a food service area during*
13 *regular breakfast and lunch periods.*

14 *(b) For purposes of this section, "food service area" means*
15 *that foods of minimal nutritional value, as defined in paragraph*
16 *(2) of subsection (a) of Section 210.11 of Title 7 of the Code of*
17 *Federal Regulations, may not be served or sold.*

18 *49575.1. Each school that is subject to Section 49550 and*
19 *that participates in a USDA school meals program may authorize*
20 *for serving or for sale during a breakfast and lunch period only a*
21 *food or beverage item that is a full meal and nutritionally*
22 *equivalent to a free or reduced-cost meal eligible for*
23 *reimbursement under the requirements of the National School*
24 *Lunch Program (7 C.F.R. 210.10) or the School Breakfast*
25 *Program (7 C.F.R. 220.8).*

26 *49575.2. For purpose of this article, the following are*
27 *applicable:*

28 *(a) A food or beverage item served or sold during a breakfast*
29 *or lunch period includes, but is not limited to, a food or beverage*
30 *item sold in a cafeteria, vending machine, snack bar, kiosk, or*
31 *school store.*

32 *(b) "Full meal" means any combination of food items that*
33 *meet a USDA-approved meal pattern.*